

Remarks

Claims 1-23 were previously pending, of which, claim 1, 20, and 22 have been amended. Reconsideration of presently pending claims 1-23 is respectfully requested in light of the foregoing amendments and the remarks that follow.

Rejections under 35 U.S.C. § 102

Claims 1-7 and 10-23 were rejected under 35 U.S.C. §102(e) as being anticipated by Pyke et al. (U.S. Patent Application Publication 2003/0179747 hereinafter referred to as “Pyke”). This rejection is respectfully traversed, for the following reasons.

The PTO provides in MPEP § 2131 that

"[t]o anticipate a claim, the reference must teach every element of the claim...."

Therefore, with respect to amended claim 1, to sustain this rejection the Pyke reference must contain *all of the above claimed elements* of the claim. However, it is respectfully submitted that Pyke does not disclose a system for handling packet communications from three entities in a packet communications network that includes “a media gateway having first and second ports for establishing first and second links to transfer packet communications to and from the first and second entities, respectively,” and “first and second packet connections for interconnecting the first and second links, respectively, to an audio server,” as is recited in claim 1.

More specifically, the Examiner indicated that paragraphs [0041, 42, and 55] of Pyke allegedly disclose such features, and that the centralized replicator 22 of Pyke allegedly discloses an audio server recited in claim 1. (Office Action, page 2). Applicant respectfully disagrees. The cited passages (and corresponding Figs. 4 and 7) of Pyke recite the following:

Packet streams 34, 36, 38 and 40 originate from associated endpoints 42, 44, 46 and 48, respectively. Accordingly, the respective transmit and receive streams 34/36 of endpoint 42, while appearing to be associated with endpoint 46 (associate media gateway 18), are associated with end point 44 within centralized replicator 22. Similarly, respective transmit and receive streams 38/40 of endpoint 46 are associated with end point 48 while

appearing to be associated with end point 42 (subject media gateway 16). Finally, internal streams 50 and 52 are associated with end points 44 and 48. Connections to end points 42, 44, 46 and 48 are initiated from media gateway controller 28 (FIG. 3) where endpoints 42 and 46 are the recognized originator and terminator endpoints. (paragraph [0041]) (emphasis added).

Endpoints 42 and 46 are typically configured to convert the TDM information from subject 12 or associate 20 into, for example, IP or ATM packets or cells depending on the fabric of centralized replicator 22. Similarly, information received at these endpoints from centralized replicator 22 is converted from IP/ATM to TDM. In contrast, endpoints 44 and 48 within centralized replicator 22 are typically configured only as packet relay endpoints and do not provide any transcoding or jitter correction in order to minimize latency and reduce the risk of detection by subject 12 or associate 20 of the monitoring. Flow control buffers (not shown) can be provided to avoid losing packets. (paragraph [0042]) (emphasis added).

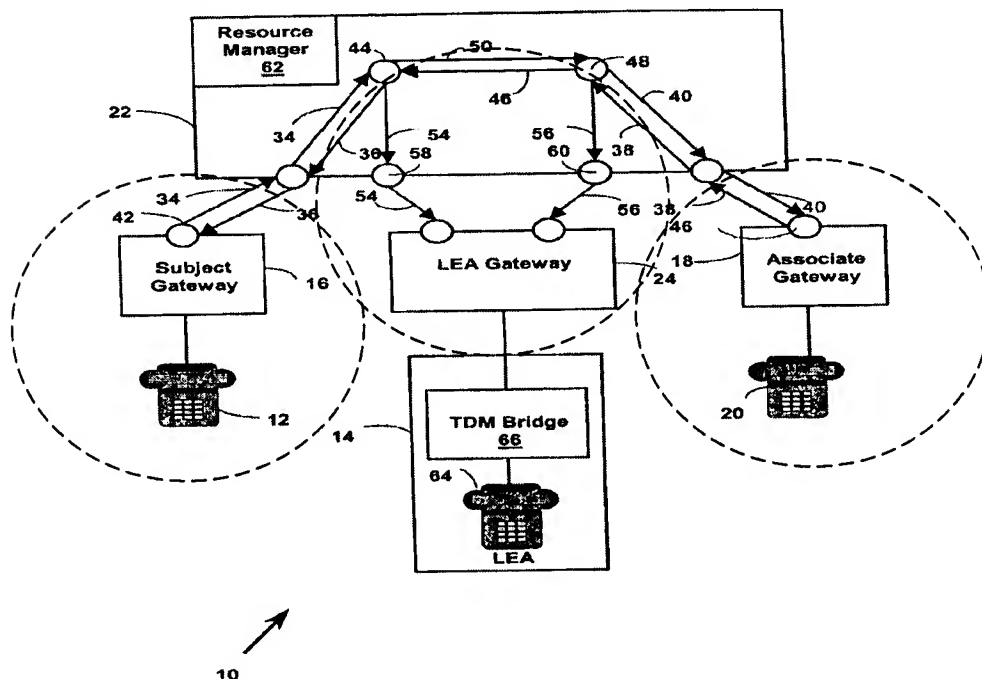


Figure 4

FIG. 7 represents generally the situation where a call-waiting feature is invoked. For illustrative purposes, each agent is serviced by a different media gateway controller. A call is originated between subject 12 and first associate 20, as discussed above, until subject 12 and first associate 20 enter the talking state as discussed above with law enforcement agency 14 receiving the call content. (paragraph [0055]) (emphasis added).

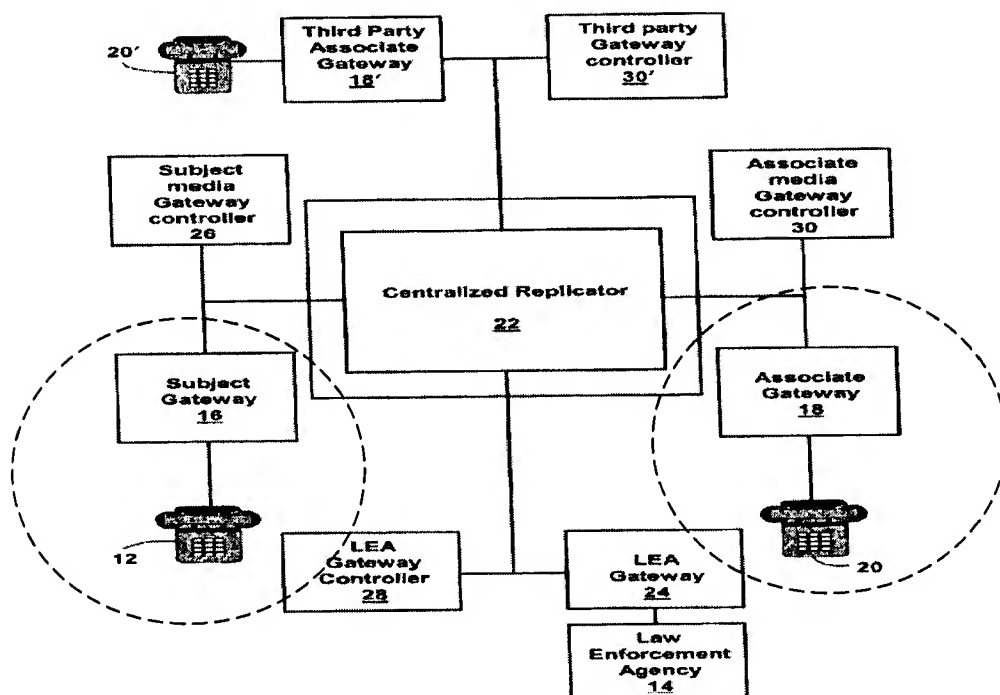


Figure 7

From the highlighted above, the Pyke reference, in FIGS. 4 and 7, clearly shows that a subject 12 is connected to the centralized replicator 22 via a port of the subject media gateway 16, and the associate 20 is connected to the centralized replicator 22 via a port of an associate media gateway 18. Accordingly, the subject media gateway 16 and associate media gateway 18 of Pyke are two separate media gateways that are each linked to the centralized replicator 22 for intercepting telecommunications. Here, claim 1 requires “a media gateway having first and second ports for establishing first and second links to transfer packet communications to and from the first and second entities, respectively,” and “first and second packet connections for interconnecting the

first and second links, respectively, to an audio server.”

Although, in FIG. 4, Pyke shows a law enforcement agency (LEA) gateway 24, the LEA gateway does not include “first and second ports for establishing first and second links to transfer packet communications to and from the first and second entities, respectively.” Instead, Pyke states that “[i]n order to ensure transparency to subject 12 and associate 20 of the intercept, streams 54 and 56 destined for law enforcement agency 14 should be unidirectional. Accordingly, endpoints 58 and 60 should be configured as send only in the direction of law enforcement agency gateway 24.” (paragraph [0044]) (emphasis added).

Therefore, the rejection of claim 1 under 35 U.S.C. §102 is not supported by the Pyke reference, and should be withdrawn.

Now turning to independent claim 12. Claim 12 was rejected under a similar rationale that was used to reject claim 1, and thus claim 12 is believed to be in condition for allowance for at least the same reasons as set forth above in claim 1.

Now turning to independent claim 15. Claim 15 was rejected under a similar rationale that was used to reject claim 1, and thus claim 15 is believed to be in condition for allowance for at least the same reasons as set forth above in claim 1.

Now turning to independent claim 20. Claim 20 has been amended and recites a similar limitation as in claim 1. Claim 20 was rejected under a similar rationale that was used to reject claim 1, and thus claim 20 is believed to be in condition for allowance for at least the same reasons as set forth above in claim 1. Further, claim 20 requires “instructing the anchor media gateway to route the voice packets to an audio server, upon receipt of the request for the three-way call.” The Examiner indicated that such a feature is allegedly disclosed in paragraphs [0056 and 58] of Pyke. The cited passages (and corresponding FIG. 8) of Pyke recites the following:

A second associate 20’ originates a call to subject 12. Associate media gateway controller 30’ performs call processing routing the call to subject media gateway 16 and it is determined that the call

is subject to an interception. Centralized replicator 22 recognizes that subject 12 is engaged in an existing call. LEA media gateway controller 28 instructs media gateway 16 to play a call waiting tone to subject 12. (paragraph [0056]) (emphasis added).

Tandeming Connectivity software 74 obtains two more endpoints 44' and 48' from resource manager 62 to tandem the call between subject 12, second associate '20 and LEA 14. Tandeming Connectivity software 74 initiates a connection between end points 42 and 44'. Tandeming Connectivity software 74 further initiates a connection between endpoints 44' and 48' within centralized replicator 22. The session description information of endpoints 42 and 44' are exchanged, and the session description information of 44' and 48' are exchanged to facilitate the completion of the bearer channel." (paragraph [0058]).

From the above, Pyke discloses a call-waiting scenario where a second associate 20' originates a call to a subject 12 while the subject 12 is engaged in an existing call with a first associate 20. As such, a bearer channel is established between the subject 12 and the second associate 20'. However, The Examiner indicated that the centralized replicator 22 of Pyke is allegedly equivalent to an audio server. Assuming *arguendo* that the centralized replicator 22 teaches an audio server, Pyke does not disclose "instructing the anchor media gateway to route the voice packets to an audio server, upon receipt of the request for the three-way call." As clearly shown in FIG. 4 above, the voice packets (of the existing call) between the subject 12 and the first associate 20 (e.g., the subject media gateway 16 and associate media gateway 18) were already routed to the centralized replicator 22 (for interception) before the second associate 20' called the subject 12. That way, the centralized replicator 22 is able to recognize that the subject 12 is engaged in an existing call with the first associate 20. Therefore, the rejection of claim 20 under 35 U.S.C. §102 is not supported by the Pyke reference, and should be withdrawn.

Now turning to independent claim 22. Claim 22 has been amended and recites a similar limitation as in claim 1. Claim 22 was rejected under a similar rationale that was used to reject

claim 1, and thus claim 22 is believed to be in condition for allowance for at least the same reasons as set forth above in claim 1.

Rejections Under 35 U.S.C. § 103

Claims 8-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pyke in view of Hou et al. (U.S. Patent 7,092,493 hereinafter referred to as “Hou”). Applicant traverses the rejection on the grounds that the reference is defective in maintaining a *prima facie* case of obviousness.

In *KSR Int’l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739 (2007), the Court stated that:

[A] patent composed of several elements is **not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.** Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to **identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.** This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known. *Id.* at 1741 (emphasis added).

As the PTO recognizes in MPEP § 2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

It is submitted that, in the present case, a *prima facie* case of obviousness does not exist with respect to claim 1, from which claims 8-9 depend from, for the following, mutually exclusive, reasons. Pyke cannot be applied to reject claim 1 under 35 U.S.C. § 103(a) which provides that:

A patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains ... (Emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be considered. However, the Pyke reference does not disclose nor suggest, all the claim limitations of claim 1 as was discussed above.

Accordingly, the Examiner's burden of factually supporting a *prima facie* case of obviousness has clearly not been met, and the rejection to claims 8-9 under 35 U.S.C. §103(a) should be withdrawn.

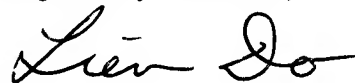
Dependent Claims

Claims 2-11, 13-14, 16-19, 21, and 23 depend from, either directly or indirectly, and further limit independent claims 1, 12, 15, 20, and 22, respectively. Accordingly, dependent claims 2-11, 13-14, 16-19, 21, and 23 are allowable for at least the same reasons set forth above in the independent claims 1, 12, 15, 20, and 22.

Conclusion

All matters set forth in the Office Action have been addressed. Accordingly, it is believed that all claims are in condition for allowance. Favorable consideration and an early indication of allowability are respectfully requested. Should the Examiner deem that an interview with Applicants' undersigned attorney would expedite reconsideration, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

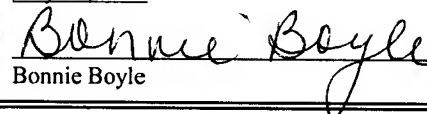


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